IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.K.MOHANAN

FRIDAY, THE 28TH DECEMBER 2007 / 7TH POUSHA 1929

Crl.MC.No. 3851 of 2007()

LP.6/2005 of CHIEF JUDICIAL MAGISTRATE, KALPETTA

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PETITIONER:

ANWAR SADATH, S/O. HAMSA,
KOLAMBAN HOUSE, CHEMBOTHARA, KOTTANAD P.O.,
MAPPADI, WAYANAD DISTRICT.

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENTS:

STATE - SHO, NEPADI POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.MOHANAN, J.

CRL.M.C.NO.3851 OF 2007

Dated this the 28th day of December, 2007

O R D E R

The petitioner who is the 11th accused in crime No.176/01 of Meppadi Police Station against whom L.P.No.6/05 pending before the Chief Judicial Magistrate Court, Kalpetta approached this court by filing the present petition under Section 482 Crl.P.C. with prayer to quash all the proceedings pending against whom in L.P.No.6/2005 before the Chief Judicial Magistrate Court, Kalpetta. It is also prayed in the alternative to issue a necessary direction for the expeditious disposal of the case against the petitioner.

2. The allegation against the petitioner and other accused in the above crime is that at about 5 p.m. on 20.4.2001 they attacked one Shaji and caused him injuries. The police after investigation filed a final report. The accused who arrested during the investigation were committed for trial upon which the Session Court took cognizance and instituted S.C.No.374/04 before the Addl. Sessions Court (Adhoc I) Kalpetta. That Sessions case was disposed of by the Sessions court as per its Annexure I

judgment dated 31.5.2005. Subsequently, the second accused was also committed for trial and the same was disposed of by Annexure II judgment dated 13.4.2007 by the Sessions Court, Kalpetta. Therefore, the counsel for the petitioner submitted that there is no meaning in compelling the petitioner to face the trial and therefore all the proceedings pending against him may be quashed.

3. Annexure III and Annexure IV depositions of Pws' 1 and 2 respectively in S.C.No.374/04 are also produced along with this M.C. on the basis of which the counsel submitted that the petitioner has not been implicated by the defacto complainant and other witnesses. Thus according to the counsel for the petitioner that there is no scope for conviction even if the petitioner face the trial.

4. I have heard the learned counsel for the petitioner as well as the public prosecutor.

5. According to the counsel for the petitioner that the petitioner was totally unaware of the incident and has not involved in the crime. The counsel submitted that the petitioner was implicated falsely in the above crime. The counsel also submitted that the petitioner came to know about the case only when he came back to his native place from gulf country where

he is employed. Now according to the counsel, the petitioner is unable to get his passport renewed and it is likely to loose his employment. It is to be noted that the petitioner who is the 11th accused in the above crime is allegedly involved in attacking the defacto complainant and committed serious offence including Section 307 IPC. The other accused has already been undergone the ordeal of trial though the trial ended in acquittal. Therefore, according to me, the petitioner has also to face the trial.

6. During the course of the argument, the learned counsel for the petitioner submitted that the petitioner is prepared to face the trial, considering his urgency to join for his employment and hence the court below may be directed to expedite the trial. Annexure I and Annexure II would show that several witnesses have to be examined and considering work load of the court below, it is not possible or proper to direct the trial court to conclude the trial urgently. However, I am inclined to dispose of this Criminal M.C. with a direction to the trial court to start the trial within one month from the date on which the case committed to it and to conclude the same as early as possible, at any rate, within three months from the date of framing of the charge. I am constrained to fix such time limit considering long pendency of the matter and also considering

the fact that the other two trial ended in acquittal as evidenced by Annexure I and II judgment.

7. Since the investigation in this case has already been completed and a final report has filed on the basis of which trial were concluded and all other accused were acquitted as per Annexure I and Annexure II judgment and also on the fact that the petitioner herein has not been arrested and not enlarged on bail previously, there is no need for sending him to either police custody or judicial custody, on his surrendering before the committal court. Therefore, on appearing the petitioner before the committal court and on moving the application for withdrawing the NBW if any pending against him and on moving an application for bail, the same shall be considered favourably on the date of his appearance and filing of the petition itself. Accordingly the petitioner is directed to appear before the committal court within two weeks from today. In the event of such surrender by the petitioner before the committal court, the committal court shall dispose of the application in the manner as observed above and also take immediate steps to commit the case forthwith for trial and the trial court is directed to expedite the trial as aforesaid.

This Crl.M.C. is disposed of accordingly.

V.K.MOHANAN, JUDGE

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